

REMARKS

In response to the Office Action mailed on June 21, 2004, claims 1 and 16 are amended; as a result, claims 1-20 are now pending in this application.

Double Patenting Rejection

Claims 1-20 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,665,558.

Applicant will consider filing a terminal disclaimer to overcome the rejection when the claims are otherwise deemed allowable.

Reservation of the Right to Swear Behind References

Applicant maintains its right to swear behind any references which are cited in a rejection, for example, rejections under 35 U.S.C. §§102(a), 102(e), 103/102(a), and 103/102(e). Statements distinguishing the claimed subject matter over the cited references are not to be interpreted as admissions that the references are prior art.

§102 Rejection of the Claims

Claims 1-4, 9, 10, 12, 13, 16, 19 and 20 were rejected under 35 USC § 102(b) as being clearly anticipated by Snell et al (U.S. Patent No. 4,791,936, "Snell"). Applicant respectfully traverses the rejection.

Concerning claims 1-4:

Applicant cannot find in Snell, among other things,
a data correlation unit, ... wherein the processor correlates at least a first data set and a second data set and sends the correlated data sets to the output unit for simultaneous display by the output unit, and wherein at least one of the data sets is collected asynchronously,

as presently recited or incorporated into the claims. Instead, Snell refers to displaying synchronous data (Abstract, col. 8 lines 44-46). Thus, Snell fails to establish proper *prima facie* anticipation with respect to the claims. Applicant respectfully requests reconsideration and allowance of claims 1-4.

Concerning claims 9, 10, 12, and 13:

Applicant cannot find in Snell, among other things, a system ... comprising: a memory containing a plurality of data sets including at least a first data set distinct from a second data set, the second data set including conditions of a cardiac rhythm management device; ... an output unit ..., the first set, second data set and conditions being simultaneously displayed on said output unit, as recited or incorporated in the claims. Applicant is unable to find any disclosure of displaying conditions of a cardiac rhythm management device as described in the present application. Reconsideration and allowance of claims 9, 10, 12, and 13 is respectfully requested.

Concerning claims 16, 19, and 20:

Applicant cannot find a method comprising ... correlating at least first and second collected data sets, the first data set distinct from the second data set, wherein at least one of the data sets is collected asynchronously, as presently recited or incorporated in the claims. Applicant respectfully requests reconsideration and allowance of claims 16, 19, and 20.

§103 Rejection of the Claims

Claims 5-8, 17 and 18 were rejected under 35 USC § 103(a) as being unpatentable over Snell et al. (U.S. Patent No. 4,791,936) in view of Spivey et al. (U.S. Patent No. 5,586,556, "Spivey"). Applicant respectfully traverses the rejection.

A claim in dependent form shall be construed to incorporate by reference all of the limitations of the claim to which it refers. 35 U.S.C. § 112. To establish a prima facie case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *M.P.E.P.* § 2143.03.

Claims 5-8 ultimately depend on claim 1. Claims 17 and 18 depend on claim 16. As discussed previously, Snell fails to disclose all of the elements presently recited in claims 1 and 16. Applicant traverses the rejection at least for the reason that the proposed combination of Snell with Spivey fails to teach or suggest all the elements of the dependent claims incorporated into their independent claims, namely claims 1 and 16. Applicant respectfully requests reconsideration and allowance of claims 5-8, 17, and 18.

Claims 14 and 15 were rejected under 35 USC § 103(a) as being unpatentable over Snell et al. (U.S. Patent No. 4,791,936) in view of Younce et al. (U.S. Patent No. 6,477,404, "Younce"). Applicant respectfully traverses the rejection.

Claims 14 and 15 depend on claim 9. As discussed previously, Snell fails to disclose all of the elements presently recited in claim 9. Applicant traverses the rejection at least for the reason that the proposed combination of Snell with Younce fails to teach or suggest all the elements of the dependent claims incorporated into independent claim 9. Applicant respectfully requests reconsideration and allowance of claims 14 and 15.

Allowable Subject Matter

Claim 11 was objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant acknowledges the allowed subject matter.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 349-9587 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

21 Sept '04

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21 day of September, 2004.

Paula Suem

Name

Paula Suem

Signature